

World Trade Situation and Policy Updates

Commerce Terminates Suspension Agreement on Imports of Fresh Tomatoes From Mexico and Resumes Antidumping Investigation

On July 30, 2002, the Department of Commerce (DOC) terminated the suspension agreement on fresh tomatoes from Mexico as well as the sunset review of the suspended investigation and resumed the antidumping investigation. This was in response to written notification on May 31, 2002, from Mexican tomato growers/exporters announcing that they had decided to withdraw from the agreement established in 1996. The DOC will reactivate the antidumping investigation from the time of the preliminary determination, originally published on November 1, 1996, and intends to make its final determination in the resumed investigation by December 12, 2002. Customs will require deposits based on the preliminary antidumping margins ranging from 4.16 percent to 188.45 percent. U.S. imports of fresh tomatoes from Mexico were valued at about \$485 million during calendar year 2001. The original suspension agreement, which ran from November 1, 1996 through November 1, 2001, established a reference price of \$0.172 per pound (equivalent to \$4.30 for a 25-pound box) for the July 1 to October 23 period; and \$0.2108 per pound (equivalent to \$5.27 per pound box) for the October 22 to June 30 period).

Mexico Reimposes Antidumping Duty on U.S. Apples

On Friday August 9, 2002, Mexico's Secretariat of Economy (SE) announced a resolution to cancel the U.S./Mexico apple dumping suspension agreement, agreed upon in 1998. With this action, SE reinitiates the antidumping investigation that started in 1997 on imports of U.S. Red and Golden delicious apples. However, SE did not reinstate the previously imposed 101-percent antidumping duty established in 1997, but rather a provisional 46.58 percent rate which was to be applied on imported U.S. product effective August 13. Reportedly, the reestablishment of the dumping investigation comes in response to Mexican concerns over increased U.S. shipments of Golden delicious apples during the current peak marketing season of domestically produced apples. Two companies, Price Cold Storage and Packing and Washington Fruit and Produce, are exempted from paying the antidumping duty. Both companies, however, must certify that the apples are from these companies in order to be exempted from the duty. U.S. apple exports to Mexico were severely hampered by the implementation of the 101-percent antidumping duty imposed in September 1997. The duty was subsequently lifted in March 1998 following the suspension agreement. Reestablishment of the antidumping duties will adversely affect U.S. apple shipments to Mexico, which is the top market for U.S. apples. In marketing year (MY) 2000/01, U.S. apple sales to Mexico totaled nearly 225,000 tons, valued at a record \$125 million. U.S. shipments to Mexico tend to be the lightest during the period September-December, with the bulk of the volume moving between January and August.

Commerce Department Issues Preliminary Review Decision on Iranian Pistachios

On August 6, 2002, the Department of Commerce's International Trade Administration (ITA) issued a preliminary decision under a New Shipper Review of the antidumping duty order on raw pistachios from Iran. The review petition was filed by the Tehran Negah Nima Trading Company (Nima). The ITA assessed a preliminary dumping margin of 120.04 percent. When combined with the existing countervailing duty, Nima's duty will be 162.70 percent for all

shipments of raw pistachios to the United States. The new duty only applies to pistachio shipments from Nima. For all other Iranian shippers of raw pistachios, a 283.80 percent duty will continue to apply (318 percent for roasted product). These original duties were imposed on Iranian pistachio imports in 1986 in response to the dumping and subsidy practices utilized by the Iranian industry. The U.S. Normal Trade Relations duty rate on raw pistachios is 0.9¢ per kilogram for inshell and 1.9¢/kg for shelled. The August 6 ITA decision is just preliminary, and there will be several proceedings before the end of the year where the parties to this review will be able to submit additional information to the ITA detailing Nima's trade. A final determination is expected by the end of the year. Other, similar petitions by Iranian pistachio interests are pending before the ITA and will be proceeding on their own schedules. Iran is the world's largest producer and exporter of pistachios. U.S. imports of pistachios from Iran topped \$40 million in 1984, but fell off to zero following the imposition of the antidumping and countervailing duties in 1986. In 2001, for the first time in many years, the United States reported small levels of pistachio imports from Iran (\$0.25 million).

U.S. District Court Finds in Favor of USDA Concerning the Spanish Clementine Lawsuit

On August 15, 2002, the U.S. District Court for the Eastern District of Pennsylvania found in favor of USDA concerning the Spanish Clementine lawsuit, stating that the Secretary's action to ban Spanish clementines was rational, prudent and in accord with applicable law. Spanish clementine interests, consisting of clementine growers and U.S. importers of clementines, filed the lawsuit on February 28, 2002. They filed suit against USDA for its ban on all imports of Spanish clementines. The ban was put into place on December 5, 2001, after several instances which live Medfly larvae was found in several U.S. states. The plaintiffs had asked the court for a preliminary injunction that would require USDA to permit limited distribution of Spanish clementines, subject to all the conditions currently required by the "work plan" established for shipment and imports of clementines. The court stated in its favorable ruling that the Secretary of Agriculture's action (the ban) was rational, prudent and in accord with applicable law; that she is seeking to implement a regulation which would allow for the safe resumption of clementine imports from Spain; and that there is no basis on the current record to conclude that she is not proceeding conscientiously and within a reasonable time frame.

Brazil Requests WTO Dispute Settlement Panel to Review Florida's Equalizing Excise Tax

On August 16, 2002, Brazil formally requested a Dispute Settlement Panel to review Florida's Equalizing Excise Tax. Brazil claims that the tax is inconsistent with the obligations of the United States under Articles III:1, III:2, and III:4 of the GATT. This formal request follows a number of developments concerning the Equalizing Excise Tax. On March 20, 2002, Brazil requested formal consultations pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes and Article XXII of the GATT. Under a previously existing state statute, Florida taxed all orange juice processed in the state from oranges produced in Florida and imported frozen concentrated orange juice (FCOJ) from Brazil and placed the revenue in a trust fund. These funds were used to finance advertising, marketing and scientific research on processed and fresh citrus products. In a parallel development, five multinational citrus processors sued the Florida Department of Citrus, arguing that the Equalizing Excise Tax violates the commerce clause in the U.S. Constitution that reserves to the

Congress the authority to tax imports. WTO consultations were held between the United States and Brazil in May and June 2002. In its request to formally initiate a WTO dispute settlement, Brazil acknowledges that the Florida statute was amended, but that they are unsure as to whether the elimination of the exemption for juice produced in states other than Florida is permanent.

U.S. Pear Exports Reached Record Value and Volume

During the 2001/02 marketing season (July-June), the United States exported more than 170,000 tons of pears, valued at \$98 million, both records. Mexico, with nearly half of the export volume and value, remained the top destination for U.S. pears in 2001/02. U.S. exports to Mexico, however, declined 4 percent in volume to 81,450 tons and 2 percent in value to \$44 million. Shipments to Canada, the second largest buyer of U.S. pears, totaled 50,000 tons, about a third of the export volume, and \$34 million or 35 percent of the value exported. Combined, Mexico and Canada alone accounted for three quarters of the volume and 80 percent of the value. The Netherlands (5 percent), Venezuela (4 percent), and Sweden (2 percent) completed the top five markets. Ample supplies of good quality fresh-marketed pears, the continued diversion of more processing pears into the fresh market, and continued promotion efforts kept U.S. pear exports strong. Exports have become vital for the success of the U.S. pear industry, generating a significant and growing share of the income of pear farmers.